

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

MESA RITH,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

ORDER

AND

MEMORANDUM DECISION

Case No. 2:16-cv-351-TC

In 2000, Mr. Mesa Rith was charged with assault on a federal officer, attempted escape from a federal facility, and aiding and abetting. (See Dec. 6, 2000 Indictment, Case No. 2:00-cr-562-TC, Docket No. 1.) On March 6, 2001, Mr. Mesa Rith plead guilty to the charge of assault on a federal officer. (See Mar. 6, 2001 Minute Entry of Change of Plea, Case No. 2:00-cr-562-TC, Docket No. 26.) The court sentenced Mr. Rith on July 30, 2001, to 96 months in custody to run consecutively with the sentence previously imposed in another federal case. (See Judgment, Case No. 2:00-cr-562-TC, Docket No. 58.)

In 2004, Mr. Rith filed a motion under 28 U.S.C. § 2255 asking the court to vacate, set aside, or correct his 96-month sentence. (Aug. 26, 2004 Mot. to Vacate Sentence, Case No. 2:04-cv-787-TC, Docket No. 1.) The court denied Mr. Rith's motion on May 19, 2005. (See Order & Mem. Decision Denying Mot. to Vacate, Set Aside or Correct Sentence under Section 2255, Case No. 2:04-cv-787-TC, Docket No. 10.)

Now, almost 11 years after the court denied his first § 2255 motion, Mr. Rith has filed

another motion under 28 U.S.C. § 2255 seeking to have his 96-month sentence vacated, set aside, or corrected. (See Mot. to Vacate, Set Aside or Correct Sentence under Section 2255, Docket No. 1.) Because Mr. Rith's motion is a second or successive motion to vacate, the court is transferring Mr. Rith's motion to the Tenth Circuit Court of Appeals for consideration. See In re Cline, 531 F.3d 1249, 1250 (10th Cir. 2008).

The Clerk of the Court is directed to transfer this case to the Tenth Circuit Court of Appeals.

SO ORDERED this 3rd day of May, 2016.

BY THE COURT:

A handwritten signature in black ink that reads "Tena Campbell". The signature is written in a cursive, flowing style.

TENA CAMPBELL
U.S. District Court Judge